

SUMMARY OF UNRESOLVED ISSUES IDENTIFIED TO DATE
Version 5.0 12.02.2010

ISSUE NO.	ISSUE AREA	ISSUE	COMMENTS	PENDING INFORMATION REQUESTS	STATUS AS OF 12-02-10 BDCP Steering Committee	PENDING ACTIONS AS OF 12-02-10 BDCP Steering Committee
	POLICY					
Ecosystem & Water Management						
1	Compliance with CA SBX7 1 - Delta Reform Act					
1-a		<p><u>Alternatives:</u> BDCP evaluates a limited range of conveyance alternatives and a suite of conservation measures. Members of the BDCP Steering Committee (NGOs) suggest that the purpose and need statement is inadequate.</p>	<p>Additional ARCADIS review needed, awaiting information from BDCP team.</p> <p>Though a range of alternatives are being considered, it does not appear that a "full range" of alternatives will be evaluated.</p> <p>There may be insufficient schedule to address this issue prior to release of BDCP public draft document.</p> <p>Four objectives were identified to meet the purpose: restoring the ecosystem, ensuring adequate water supplies, improving water quality, and strengthening levees. BDCP does not appear to include evaluation of alternatives that will reduce future exports. Can BDCP achieve its purpose if it includes evaluation of a reduced future exports alternative?</p>	<p>Information Requested. The Council and staff have pending information requests:</p> <p>1) a description of the full suite of alternatives that have been and are being considered for conveyance and conservation measures;</p> <p>2) a description of how BDCP plans to consider the recently released SWRCB flow criteria;</p> <p>3) a description of specific water supply goals, including a definition of water supply reliability;</p> <p>4) a description of how BDCP is considering means to reduce future reliance on the Delta as a water supply source; and</p> <p>5) a description of how BDCP is addressing the issues of floods and levee failure as they relate to the ability to satisfy the co-equal goals.</p>	<p>The November 18 BDCP Steering Committee meeting reviewed:</p> <p>- Chapters 5 - Effects Analysis (abbreviated chapter)</p> <p>- Chapter 8 - Implementation Costs and Funding Sources</p> <p>- Chapter 9 - Alternatives to Take Considered and Rejected</p> <p>- Chapter 3 - Conservation Strategy</p> <p>Substantial discussion on analysis and iteration of alternatives took place.</p> <p>Analyzing a range of conservation strategies (operational regimes and conservation measures) to develop a credible proposed project fulfilling the State policy "to reduce reliance on the Delta for meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency". Modeling the SWRCB recommended public trust flows for the Delta is a starting point.</p> <p>Comment letter to Sec. Salazar, Department of Interior from EDF, TNC, NRDC, TBI, AR, DOW, December 1, 2010.</p>	<p><u>No additional substantive information (December 2, 2010), except where noted.</u></p> <p>The BDCP Steering Committee Working Draft was released on November 23, 2010. http://baydeltaconservationplan.com/Home.aspx. Re-released December 1 due to problems for some users, zipped file available in the near future.</p> <p>Resources Agency will release a <i>State Transition Document</i> the week of December 6, to the new Brown administration to guide the next steps of BDCP in the upcoming year.</p>

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			<p>A follow-up to the benefit-costs analysis for environmental flows and agricultural exports in the recent publication of the SWRCB Delta Environmental Flow Requirement is needed to support BDCP's identification of a range of alternatives in order to achieve a balanced proposal supporting coequal goals of ecosystem restoration and system reliability.</p> <p>A goal of the Delta Reform Act is to restore critical ecological habitats and reduce the future reliance on the Delta as a source for water exports. Can improved reliability be achieved with reduced future water exports that have a greater certainty of delivery? At this time BDCP does not appear to notably reduce reliance on future water exports from the Delta.</p>	<p>Additional questions are pending based upon recent requests to provide targeted feedback on specific issue areas that are critical to the development of the Delta Plan.</p>		
1-b		<p><u>Flow Criteria:</u> The BDCP does not use SWRCB flow criteria as a baseline for analysis.</p>	<p>The importance of flow criteria is defined by law and is explicit as to the intended use: "For the purpose of informing planning decisions for the Delta Plan and the Bay Delta Conservation Plan, the board shall, pursuant to its public trust obligations, develop new flow criteria for the Delta ecosystem necessary to protect public trust resources." (Water Code § 85086(c)).</p>		<p><u>No additional substantive information (December 2, 2010), except where noted.</u></p> <p>The reliability of exports in terms of regulatory stability, seismic risk, and adaptation to climate change is the focus of the BDCP. Response letter submitted by the California Department of Natural Resources, October 14, 2010.</p> <p>Analyzing a range of conservation strategies beginning by modeling the SWRCB recommended public trust flows for the Delta is a starting point. Comment letter to Sec. Salazar, Department of Interior from EDF, TNC, NRDC, TBI, AR, DOW, December 1, 2010.</p>	<p>Workshop to discuss SWRCB Delta Flows scheduled for early January. Focus of workshop is discuss the Draft Technical Report on the Scientific Basis for Alternative San Joaquin River flow and Southern Delta Salinity Objectives. Workshop is set for January 6 and 7 at 9am in the Coastal Hearing Room Joe Serna, Jr. Cal-EPA Building, Sacramento.</p>

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1-c		<u>Operations</u> : BDCP has not fully evaluated both near- and long-term operations scenarios. Council and staff are discussing how to address the consideration of near-term operations in the Effects Analysis.	Additional ARCADIS review needed, awaiting information from BDCP team.		<p>The Delta Reform Act of 2009 states that water rights shall not be impaired or diminished as a result of its provisions. It is critical that the BDCP acknowledge that the parties to the BDCP, not third parties, have full responsibility to satisfy any flow obligations described as part of the BDCP alternatives. Comments submitted by the Northern California Coalition, November 4, 2010.</p> <p>GCID has requested but not received modeling information describing modeling assumptions, and a confirmation that the Initial Operational Criteria do not assume reductions in upstream deliveries. Comment letter submitted by Somach Simmons & Dunn, September 3, 2010.</p> <p>Analytical Range B relies upon contributions of flow from upstream water users who are not party to the BDCP, and could be considered as a "related action alternative" in a CEQA analysis. Comment letter submitted by Somach Simmons & Dunn, September 3, 2010.</p> <p>Real-time operations of water supply can be integrated with spatial and temporal fish use within the Delta ecosystem. Processes exist that coordinate the Delta Operations Salmonid and Sturgeon (DOSS) and the Smelt Work Group (SWG) with the Water Operations Management Team (WOMT). OCAP Review, November 8 & 9, 2010.</p>	<p><u>No additional substantive information</u> (December 2, 2010), except where noted.</p> <p>Workshop to discuss SWRCB Delta Flows scheduled for early January. Focus of workshop is discuss the Draft Technical Report on the Scientific Basis for Alternative San Joaquin River flow and Southern Delta Salinity Objectives. Workshop is set for January 6 and 7 at 9am in the Coastal Hearing Room Joe Serna, Jr. Cal-EPA Building, Sacramento.</p> <p>Westland's Water District and San Luis Delta Mendota Water Agency have currently withdrawn funding of the BDCP process.</p> <p>Improved linkages needed between achieving BDCP biological goals/objectives and water project operations (water supply assurances)</p> <p>NRC will collaborate with the Delta Independent Science Board to evaluate stressors. The Council has requested the ISB to prioritize the importance of stressors. NRC and Delta Independent Science Board is meeting is scheduled for the week of December 6, 8:30 a.m. – 5 p.m. 980 Ninth Street, 2nd Floor, Park Tower Conference Room.</p>

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					Analyzing a range of conservation strategies (operational regimes and conservation measures) to develop a credible proposed project fulfilling the State policy "to reduce reliance on the Delta for meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency". Modeling the SWRCB recommended public trust flows for the Delta is a starting point. Comment letter to Sec. Salazar, Department of Interior from EDF, TNC, NRDC, TBI, AR, DOW, December 1, 2010.	

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PROGRAMMATIC						
Ecosystem & Water Management						
2		<u>Purpose statement:</u> The BDCP project purpose statement suggests supporting full contract delivery requirements but is vague in providing objectives for restoration and species recovery.	Additional ARCADIS review needed, awaiting information from BDCP team.		<u>No additional substantive information (December 2, 2010), except where noted.</u> Addressed in Issues For Discussion Document, chapter 3. The purpose and need are foundational issues and need updating for consistency with State law, best available science, and the interests of local governments and people of the Delta counties. Comment letter submitted by Delta Counties Coalition, September 10, 2010. The Purpose and Needs Statement should be revisited by the Council on the foundational issue of available flow for export. Comment letter submitted on behalf of the Delta Counties Coalition, October 28, 2010.	<u>No additional substantive information (December 2, 2010), except where noted.</u> Questions regarding the efficacy of the BDCP purpose statement and whether it needs revision for consistency with the Delta Reform Act. Further discussion is required to clarify the value of an updated purpose statement.

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3		<p><u>Project Description:</u> The BDCP project description still needs to be determined.</p>	<p>BDCP is a plan/program organized to address the requirements of HCP/NCCP that will provide permits and regulatory protection for a 50-year time frame.</p> <p>The Delta Habitat Conservation and Conveyance Plan (DHCCP) is the BDCP "project" that will be analyzed under CEQA/NEPA.</p> <p>Additional ARCADIS review needed, awaiting information from BDCP team.</p>	<p>Information Requested. The Council and staff requests a complete project description from the BDCP team.</p>	<p>During the November 18 BDCP Steering Committee meeting, discussion on the project description statement focused on an 'iterative analysis' process to achieve 'coequal goals' and to modify the proposed project description to reflect a balance. It was pointed out that Range B was not evaluated.</p> <p>Analyzing a range of conservation strategies (operational regime and conservation measures) to develop a credible proposed project fulfilling the State policy "to reduce reliance on the Delta for meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency".</p> <p>Modeling the SWRCB recommended public trust flows for the Delta is a starting point. Comment letter to Sec. Salazar, Department of Interior from EDF, TNC, NRDC, TBI, AR, DOW, December 1, 2010.</p> <p>Development of measurable objectives, iteration of the effects analysis is still needed to adjust and inform the development of the proposed project.</p>	<p><u>No additional substantive information (December 2, 2010), except where noted.</u></p>

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4		<u>Goals and objectives:</u> BDCP goals and objectives are not specific.	Additional ARCADIS review needed, awaiting information from BDCP team.		<p>November 18 BDCP Steering Committee meeting provided an updated Draft Goals and Objectives for Covered Species, Section 3.3.</p> <p>Discussion on the linkage of Conservation Measures to the effects on Covered Species. Adaptive management of water operations and other measures going forward requires the Logic Chain linkage of Objectives that are SMART - specific, measurable, achievable, relevant, and time-bound.</p> <p>Comments by members of the Steering Committee indicated that water operations have not been "iterated".</p> <p>Measuring the extent to which different conservation strategies will achieve biological objectives and iteratively revising Plan components to craft a Plan that will best advance progress toward biological objectives. Modeling the SWRCB recommended public trust flows for the Delta is a starting point. Comment letter to Sec. Salazar, Department of Interior from EDF, TNC, NRDC, TBI, AR, DOW, December 1, 2010.</p> <p>Updated species specific biological objectives and stressors have been partially incorporated into the Working Draft Plan.</p> <p>Further development and identification of plan biological objectives for ecosystem benefits, regulatory assurances, and iterative use of the effects analysis still needed to refine conservation measures.</p>	<p>Consensus opinion of the BDCP Steering Committee indicates the current November 18 Working Draft sets the stage and covers much of the groundwork of a roadmap to move forward. More work is needed to meet the objectives of the Steering Committee.</p>

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5		<u>Governance</u> : Proposed BDCP governance, including definition of the management entity, operations, and real-time decision-making processes, is not yet well defined.	Additional ARCADIS review needed, awaiting information from BDCP team.		<p>Additional discussion and revision on Governance Chapter has been noted by the Steering Committee, specific Sections included 7.1.1.3, 7.2.8, 7.2.12, 7.3.12, and 7.3.5.</p> <p>BDCP governance, adaptive management structure, operations, and real-time decision-making processes require further definition.</p> <p>Adaptive management program, annual work plans, and annual operating plans should provide additional details on the decision-making authority. An outstanding concern of how permit issuing agencies will retain ultimate decision-making authority over actions affecting covered species.</p> <p>FWS staff has requested that previously submitted text be reinserted because omitted material captured processes, communication flows, and effort of significant governance issue areas.</p> <p>Specific issues included the integration and coordination between water operations and the Delta Operations Salmon and Sturgeon (DOSS) and Smelt Working Group (SWG) teams. Other issues included the flow of communications, processes, and coordination between the Implementation Office, Implementation Board, & other entities.</p> <p>Improved linkages needed between achieving BDCP biological goals/objectives and water project operations (water supply assurances).</p> <p>Proposed governance integration with the Delta Conservancy and the Delta Protection Commission requires better definition.</p>	<p><u>No additional substantive information (December 2, 2010), except where noted.</u></p> <p>Carl Wilcox (DFG) will coordinate updated Section 7.3.12, Real-Time Operations, adaptive management range & other subsections.</p>

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6		<u>Plan framework</u> : At this time a complete and integrated framework for BDCP development and implementation is missing.	It is not clear how all pieces of BDCP will fit together. The overall implementation plan lacks detail. We are aware that ongoing activities in this area are occurring but we have not yet seen the results of these activities. Additional ARCADIS review needed, awaiting information from BDCP team.		<u>No additional substantive information (December 2, 2010), except where noted.</u> Integration of water operations with Adaptive Management processes and habitat restoration actions is the challenge. The iteration of alternative water operation plans to evaluate the effects on Covered Species is what many on the BDCP Steering Committee view has not occurred. Addressed in Issues For Discussion Document, Chapters 3 and 6 thru 8.	<u>No additional substantive information (December 2, 2010), except where noted.</u>
7		<u>Adaptive Management</u> : There is inadequate development of a comprehensive adaptive management plan for conservation measures and operational ranges.	The adaptive management plan does not fully integrate technical information into a management and implementation plan; the plan needs informed, clear performance objectives and an outcome-based strategy. While progress in the Adaptive Management Plan (AM) has occurred, further effort is needed to integrate governance with AM. ARCADIS is conducting ongoing review.		Draft of the Logic Chain with models for individual species has been circulated for review and feedback. Feedback was discussed November 26 & 27 during the Independent Science Advisors workshop. Addressed in Issues For Discussion Document, Chapters 3 and 7.	<u>No additional substantive information (December 2, 2010), except where noted.</u>

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					<p>Adaptive management program, annual work plans, and annual operating plans should provide additional details on the decision-making authority.</p> <p>Preliminary Adaptive Management Section 3.7 released as part of the November Working Draft Plan.</p> <p>A remaining concern is how permit issuing agencies will retain ultimate decision-making authority over actions affecting covered species. A sufficiently broad adaptive management process and related implementing institutional structures, over time will enable measured performance of BDCP, as well as improvements and adjustments to reflect changing scientific understanding and changing environmental conditions.</p> <p>Comment letter to Sec. Salazar, Department of Interior from EDF, TNC, NRDC, TBI, AR, DOW, December 1, 2010.</p>	
8		<p><u>Schedule:</u> There appears to be insufficient time to adequately address comments already received and to provide a complete evaluation of alternatives prior release of the draft BDCP document on November 18, 2010.</p>	<p>Current BDCP draft document schedule will not likely allow enough time for resolution of pending comments and concerns raised by stakeholders and Independent Science Advisors. BDCP stakeholders have also expressed concern regarding the currently anticipated timing/release of the draft BDCP document prior to the draft EIR/EIS. It has been noted that the BDCP Planning Agreement requires concurrent release to facilitate adequate public review and comment.</p>		<p>It is expected that the Resources Agency will release a <i>State Transition Document</i> the week of December 6 that will guide the transition of the BDCP to the new Brown administration. Current anticipated schedule is for the BDCP Steering Committee to reform in January in order to proceed with a late July release of the Draft BDCP and Administrative Draft EIR documents. October 2011 is the target release of the Draft EIR and Final EIR in the winter/spring of 2012.</p>	<p><u>No additional substantive information (December 2, 2010), except where noted.</u></p>

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9		<u>Funding:</u> The cost of BDCP implementation, sources of funds, and share arrangements have not yet been identified.	Required HCP funding assurances as stipulated by the HCP process have not been established. At this time, the cost of BDCP implementation, the sources of funding, the share arrangements, and funding guarantees are not well defined. Additional ARCADIS review needed, awaiting information from BDCP team.		Addressed in Issues For Discussion Document, Chapter 8. Cost estimates continue to evolve due to substantive comments by Steering Committee members. Revised cost estimates are captured within the November Working Draft and these costs are still preliminary and subject to further revision. The most recent capital estimates decreased by 25% from September "Issues for Discussion" document while the operating costs increased by more than 100%. USBR and DWR have not committed to pay for a portion of the BDCP costs not directly related to conveyance and expect public and other funds to pay for conservation measures.	<u>No additional substantive information. (December 2, 2010), except where noted.</u> A substantive and detailed breakdown of a prospective funding mechanism is lacking, although discussion continues with specifics anticipated. It has been suggested to the Council that specific and targeted comments, feedback and discussion on key issues be submitted to the BDCP Steering Committee, including clarification of: a) In the view of the applicants, they expect some costs will be allocated to the public. What assurances are there on funding allocation and what proportion should be attributable to the public? b) What happens if state or federal appropriations don't materialize at some point down the road (in the future)? c) Who bears that risk when funding does not materialize? d) Where does supplemental funding come from in such a scenario?

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REGULATORY						
Ecosystem						
10		<u>HCP</u> : There does not appear to be compliance with the federal agencies "White Paper on Application of the 5 Point Policy-04-29-10" guidance to BDCP.	BDCP needs to address uncertainties in HCP/NCCP, adaptive management, and monitoring to ensure that the plan will meet its conservation goals. Explicit biological goals and objectives are needed to provide the basis for proposed conservation measures. So that USFWS and NOAA NMFS can issue permits, BDCP must include clearly defined and scientifically supported biological goals and objectives; an adaptive management plan that tests alternative strategies for meeting those biological goals and objectives; and a robust framework for adjusting future conservation actions. The linkages between individual conservation measures and the restoration actions that achieve those objectives need to be more clearly defined.	Information Requested. We request information from the BDCP team regarding how BDCP is addressing compliance with the "White Paper on Application of the 5 Point Policy-04-29-10"; how BDCP is addressing uncertainties compared to other complex HCPs; and how BDCP is resolving consistency and/or conflicts with other existing HCPs.	The HCP and associated recovery plan will need to provide for recovery of Covered Species. So far, it is not clear whether the effects analysis meets this standard. Concern that analysis may not meet the substantially lesser standard of "avoiding jeopardy". Effects analysis currently supports maintaining status quo and "no significant change" of a declining ecosystem, rather than improved biological conditions (recovery standard) The mitigation measures and standards of the HCP/NCCP need accountability and the enforcement. The intent of the implementation structure is to ensure the terms and conditions of the plan and associated regulatory authorizations, EIR/EIS and HCP/NCCP are implemented and enforced. Comments submitted by North Delta Water Agency, October 20, 2010.	<u>No additional substantive information (December 2, 2010), except where noted.</u> A Goals and Objectives workshop was conducted last week and a report will be provided summarizing that workshop during the November 4 BDCP Steering Committee meeting. The basis of this workshop was the October 7 'Guidance Regarding Development and Role of Biological Objectives' roadmap. Yolo County has extended a moratorium on the conversion of agricultural land for wildlife and habitat restoration projects.

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			Background details are needed to show how other complex HCPs have addressed uncertainties.		BDCP presentation to the Delta Conservancy on December 1, 2010 recognizes a greater need of understanding local interests when developing the Yolo Bypass Conservation Measure and Fishery Enhancement Plan. - Collaboration is needed to resolve issues with local participation by stakeholders - Key interest's of Yolo County are flood control and effects on farming and the local economy - Burdens should not be unduly born by the local counties and residents - Moving forward we need 'true participation', protection of agriculture and protection of the viability of Delta communities - Primary concern is for local involvement in the development of any plan, particularly for Yolo County are the important uses of the Yolo	
					Bypass that includes agricultural impacts of increased flooding, clear biological objectives, Westside option, pilot projects to show feasibility, and Fremont Weir operations for flood management and control. Analytical Range B relies upon contributions of flow from upstream water users who are not party to the BDCP. The NGO analysis of watershed unimpaired runoff approach considers the contribution of water taken from upstream users to achieve the goals and objectives of the BDCP, and should be considered a "related action alternative" in a CEQA analysis. Not considering the BDCP and HCP/NCCP as part of a CEQA analysis will result in a flawed CEQA document. Comment letter submitted by Somach Simmons & Dunn, September 3, 2010.	

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					<p>The importance of getting the Effects Analysis correct is because that analysis serves as the basis for the EIR/EIS, the Biological Assessment and the Biological Opinion supporting the HCP/NCCP.</p> <p>The fishery agencies are playing a role in the BDCP by providing advise so the Effects Analysis can provide that foundation of subsequent Agency, DFG, FWS and NMFS, analysis.</p>	
11		<p><u>NCCP:</u> Based on our review to date, BDCP conservation outcomes do not appear to be linked to recovery, nor are outcomes demonstrated to be equivalent to recovery.</p>	<p>To satisfy HCP/NCCP requirements the BDCP will need to clearly describe the proposed approach to avoid, minimize, and mitigate, to the maximum extent practicable, impacts on covered species and their habitats while allowing for operations, maintenance, and construction.</p> <p>As an NCCP, the BDCP not only needs to address impact mitigation but will also need to demonstrate an effective species recovery program and to support delisting of listed species and help preclude the need to list additional species in the future.</p>	<p>Information Requested. We request information from the BDCP team regarding how BDCP is addressing NCCP specific compliance requirements/standards and associated findings.</p>	<p>NCCPs are required to provide for recovery of Covered Species. So far, it is not clear that the effects analysis of operations meets this standard. Concern that analysis may not meet the substantially lesser standard of “avoiding jeopardy”.</p> <p>Effects analysis currently supports maintaining status quo and “no significant change” of a declining ecosystem, rather than improved biological conditions (recovery standard)</p>	<p><u>No additional substantive information (December 2, 2010), except where noted.</u></p> <p>Yolo County has extended a moratorium on the conversion of agricultural land for wildlife and habitat restoration projects.</p>

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			Population metrics should link habitat-specific attributes of quantitative estimates of abundance and quantitative measures of movement and distribution. In addition the BDCP performance metrics must relate to fish vital demographic rates. Additional ARCADIS review needed.		BDCP presentation to the Delta Conservancy on December 2, 2010 recognizes a greater need of understanding local interests when developing the Yolo Bypass Conservation Measure and Fishery Enhancement Plan. - Collaboration is needed to resolve issues with local participation by stakeholders - Key interest's of Yolo County are flood control and effects on farming and the local economy - Burdens should not be unduly born by the local counties and residents - Moving forward we need 'true participation', protection of agriculture and protection of the viability of Delta communities - Primary concern is for local involvement in the development of any plan, particularly for Yolo County are the important uses of the Yolo	<u>No additional substantive information (December 2, 2010), except where noted.</u> Yolo County has extended a moratorium on the conversion of agricultural land for wildlife and habitat restoration projects.

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TECHNICAL						
Ecosystem & Water Management						
12		<p><u>Modeling Assessments:</u> The role and adequacy of modeling assessments supporting the Effects Analysis is incomplete based on our review to date.</p> <p>The Effects Analysis should be iterated to measure the extent to which different conservation strategies will achieve biological objectives and iteratively revising Plan components to craft a Plan that will best advance progress toward biological objectives.</p>	<p>Our ongoing review is based on limited publicly available information. A clear presentation describing BDCP's integrated modeling program is currently unavailable. The methods and assumptions should be presented in a transparent fashion and additional hydrodynamic modeling assessments should be performed. There are additional needs to optimize benefits and better manage risks for covered species through more refined modeling analyses and a closer examination of the interrelationships between measures. Application of finer scale modeling tools (e.g., daily time step modeling) may be needed.</p>	<p>Information Requested. We request the opportunity to meet and discuss modeling issues with appropriate members of the BDCP team.</p>	<p>No report of the modeling meeting between the NGOs and Stakeholder groups and Armin of the SAIC modeling team. Goal was to better understand the hydrologic modeling and address issues including water quality concerns.</p> <p>Role that freshwater flows play in the health of the estuary needs to more clearly and fully evaluated</p> <p>All conclusions of benefits should be adequately based on well supported analysis All conclusions of benefits should be adequately based on well supported analysis.</p> <p>There is lack of consistent use and reporting of uncertainty within the analysis and a lack of consistent use or reporting of natural patterns of variance (quantitative and qualitative).</p> <p>Water quality modeling results have concerns that may require significant adjustment in plan operations.</p> <p>Effects Analysis requires use of best available science and solid scientific foundation (i.e. treatment of flow-habitat relationships and the spatial and temporal affects on habitat from outflow).</p>	<p><u>No additional substantive information (December 2, 2010), except where noted.</u></p> <p>The BDCP Steering Committee indicated that a plan will develop to complete the modeling in subsequent iterations.</p>

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					<p>Role that freshwater flows play in the health of the estuary needs to more clearly and fully evaluated.</p> <p>Appropriate resolution of data (time-step or spatial extent) is needed to support determination of biological impacts (i.e. average values can hide larger changes within the system).</p> <p>Based on preliminary findings Department of Interior biologists state that proposed BDCP reductions in Delta outflow have not been adequately evaluated and are likely to increase the risk that delta smelt will become extinct.</p> <p>Measuring the extent to which different conservation strategies will achieve biological objectives and iteratively revising Plan components to craft a Plan that will best advance progress toward biological objectives. Modeling the SWRCB recommended public trust flows for the Delta is a starting point. Comment letter to Sec. Salazar, Department of Interior from EDF, TNC, NRDC, TBI, AR, DOW, December 1, 2010.</p> <p>Operations of the Delta Cross Channel gates require scientifically based analysis including a sensitivity analysis of DWRs model DSM2 to address water conveyance within the Delta. Grace Napolitano, Chairwoman, Subcommittee on Water and Power. October 20, 2010.</p>	

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					<p>Appropriate resolution of data (time-step or spatial extent) is needed to support determination of biological impacts (i.e. average values can hide larger changes within the system).</p> <p>Based on preliminary findings Department of Interior biologists state that proposed BDCP reductions in Delta outflow have not been adequately evaluated and are likely to increase the risk that delta smelt will become extinct.</p> <p>Analytical Range B relies upon contributions of flow from upstream water users who are not party to the BDCP, and could be considered as a "related action alternative" in a CEQA analysis. Comment letter submitted by Somach Simmons & Dunn, September 3, 2010.</p> <p>The inappropriate use of 'poorly conceived and simplistic' models and an inappropriate resolution of data to determine biological impacts. . Comment letter submitted by NGOs, November 3, 2010.</p>	

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13		<p><u>Logic Chain:</u> To date there appears to be an incomplete development and integration of the logic chain into the BDCP document; the biological goals and objectives are incomplete.</p>	<p>Additional ARCADIS review needed. A logic chain has been strongly recommended by the Delta Science Program as a means to provide the overall structure/foundation and necessary linkages to ensure that selected BDCP conservation measures (actions) will achieve the BDCP's specific biological goals and objectives (to be defined) and the associated broad ecosystem and species recovery goals.</p> <p>The logic chain framework also defines the flow of information that supports the adaptive management process to identify what has been learned and how this information will be used to inform ongoing actions and to facilitate a real-time decision-making process.</p> <p>The biological goals for each conservation measure need to link to the stressors/limiting factors, which are tied to the BDCP goals and objectives. Each level needs to roll-up to global goals and objectives.</p> <p>Metrics should link habitat-specific attributes of quantitative estimates of abundance, and quantitative measures of movement and distribution. BDCP performance metrics must be measureable and relate or link to fish vital demographic rates. The current logic chains are species-specific due to a wide range of life histories and ecological requirements of each species.</p>	<p>Information Requested. We request the opportunity to meet and discuss BDCP's incorporation of logic chain issues with appropriate members of the BDCP team.</p>	<p>The Working Draft Plan does not fully reflect the outcome of the 'Theme Team' discussions, details, and species specific measurable goals focused on addressing the HCP/NCCP requirements. The Goals and Objectives should address life stage and geographic distribution.</p> <p>Measuring the extent to which different conservation strategies will achieve biological objectives and iteratively revising Plan components to craft a Plan that will best advance progress toward biological objectives. Modeling the SWRCB recommended public trust flows for the Delta is a starting point. Comment letter to Sec. Salazar, Department of Interior from EDF, TNC, NRDC, TBI, AR, DOW, December 1, 2010.</p>	<p><u>No additional substantive information</u> (December 2, 2010), except where noted.</p> <p>Anticipate a report from the ISA on the Logic Chain in the near future, possible timeframe is December/January.</p>

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			A logic chain based on a community and ecosystem is also needed to provide a broader evaluation of ecosystem health. ARCADIS is conducting ongoing review.			
14		<u>Ecological Models</u> : The ecological models are inadequately integrated.	Additional ARCADIS review needed. Better information on the survival and growth of covered species and predators in the Yolo Bypass, Cache Slough, and Sacramento River is needed to establish baseline conditions against which covered species benefits resulting from implementing the conservation measures can be determined and documented.	Information Requested. We request information from the BDCP team regarding integration of ecological models; linkages between stressors, conservation measures, and goals and objectives; and descriptions of anticipated species benefits.	<p>The analytical models are based upon hydrological flow models as a primary driver of impacts to biological resources, and use a monthly time-step to evaluate impacts.</p> <p>The inappropriate use of ‘poorly conceived and simplistic’ models and an inappropriate resolution of data to determine biological impacts.</p> <p>Documenting and identifying key thresholds, biological limits and sampling limits needed to detect change is necessary to assess impacts on covered species, ecosystem values, and relevant resolution of those thresholds, maximum versus average. Comment letter submitted by NGOs, November 3, 2010.</p> <p>The current “ranges of operations” considered by the BDCP include contribution of flow from upstream water users who are not party to the BDCP. Comment letter submitted by Northern California Coalition, November 4, 2010.</p>	<p><u>No additional substantive information</u> <u>(December 2, 2010), except where noted.</u></p>

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					Three major effects: - Habitat access, quality of habitat, food-supply, ecological function such as inundated floodplain & channel margin habitat - Conservation Measures on other stressors such as toxins, predation - Effects of water project operations on local Delta areas as well as the four upstream storage reservoirs ability to provide adequate water temperatures	
15		<u>Stressors</u> : At this time there appears to be a need for more direct linkages between stressors, conservation measures, and goals and objectives. Those stressors that will not be addressed by BDCP actions need to be clearly identified.	Additional ARCADIS review needed.	Information Requested. We request information from the BDCP team regarding integration of ecological models; linkages between stressors, conservation measures, and goals and objectives; and descriptions of anticipated species benefits.	Effects analysis on stressors is not yet sufficiently detailed to prioritize conservation measures with the greatest positive ecological impact.	<u>No additional substantive information (December 2, 2010), except where noted.</u> NRC will collaborate with the Delta Independent Science Board to evaluate stressors. The Council has requested the ISB to prioritize the importance of stressors. NRC and Delta Independent Science Board is meeting is scheduled for the week of December 6, 8:30 a.m. – 5 p.m. 980 Ninth Street, 2nd Floor, Park Tower Conference Room.
16		<u>Species Benefits</u> : At this time anticipated species specific restoration benefits vs. integrated ecosystem benefits are unclear.	Additional ARCADIS review needed. The BDCP adaptive management plan is not currently linking conservation measures and predicted outcomes. More detail is needed to link these elements and identify the necessary compliance and performance monitoring.	Information Requested. We request information from the BDCP team regarding integration of ecological models; linkages between stressors, conservation measures, and goals and objectives; and descriptions of anticipated species benefits.	An updated Goals and Objectives Section 3.3 were discussion on November 18, 2010. Elements of the workshop held earlier in November were incorporated into the updated section. The statutory requirement to achieve other goals in a manner that protects the interests of Delta communities is being ignored. Delta Counties Coalition, September 10, 2010.	<u>No additional substantive information (December 2, 2010), except where noted.</u>

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					The reliability of exports in terms of regulatory stability, seismic risk, and adaptation to climate change is the focus of the BDCP. California Department of Natural Resources, October 14, 2010. The inappropriate use of 'poorly conceived and simplistic' models and an inappropriate resolution of data to determine biological impacts.	

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17		<u>Flow Criteria</u>	<p>Additional ARCADIS review is needed.</p> <p>SWRCB recommendations should be addressed.</p> <p>Flow criteria, including quantity and patterns, for covered fish species and other aquatic species must be addressed. The quantity of water needed is clearly an important part of the inquiry.</p> <p>In addition to the quantity of water allowed to flow out of the Delta, an equally important question is timing. When does more water need to be released to support different life stages of fish?</p> <p>Given that there are multiple listed species that need protection, including both pelagic and anadromous fish, how can the different flow schedules and needs of all these fish be accommodated and reconciled? What level of contaminant reduction is needed to ensure adequate water quality? Flow into the Delta is of particular importance for anadramous fish and needs to be addressed.</p>	<p>Information Requested. See request in 1-a above.</p>	<p><u>No additional substantive information (December 2, 2010), except where noted.</u></p>	<p><u>No additional substantive information (December 2, 2010), except where noted.</u></p> <p>Workshop to discuss SWRCB Delta Flows scheduled for early January. Focus of workshop is discuss the Draft Technical Report on the Scientific Basis for Alternative San Joaquin River flow and Southern Delta Salinity Objectives. Workshop is set for January 6 and 7 at 9am in the Coastal Hearing Room Joe Serna, Jr. /Cal-EPA Building, Sacramento.</p>
18		<u>Conveyance Alternatives</u>	<p>We have begun review of this topic based on limited publicly available information on DHCCP.</p> <p>Several conveyance design concepts have been identified including canal and tunnel options to support flows ranging from 3,000 to 15,000 cfs, and potential diversion locations have been identified along the Sacramento River in the North Delta. Possible conservation benefits and/or adverse impacts associated with various conveyance options have been generally discussed but are not well established. Risks (e.g., flood and seismic) are still yet to be evaluated.</p>	<p>Information Requested. See request in 1-a above.</p>	<p>Model results to date do not appear to have fully evaluated smaller conveyance alternatives.</p> <p>A full sweet of alternatives rather than a narrow and constrained set of options need evaluation. Comment letter submitted by the Pacific Institute, October 21, 2010.</p> <p>The hydrology and system operations do not allow for the continued desired level of exports from the Delta. Comment letter submitted by South Delta Water Agency, October 27, 2010.</p>	<p><u>No additional substantive information (December 2, 2010), except where noted.</u></p>

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					The conveyance facility size should complement the Plan's biological objectives and commensurate controls to ensure that those objectives are achieved. Comment letter to Sec Salazar, Department of Interior from EDF, TNC, NRDC, TBI, AR, DOW, December 1, 2010.	
19		<u>Monitoring Plan and Scientific Investigations</u>	Limited information related to this topic is currently available and we have just begun our review. A program needs to be developed to specifically identify what data will be collected to effectively measure those metrics designed for compliance and performance, and used to measure expected outcomes for both terrestrial and aquatic resources. These data will also need to support the decision-making process. Related information will include how data are collected, the frequency of collection (statistical power analysis) to increase significance and reduce uncertainty, and the cost of gathering that data to make future decisions. Proposed monitoring data analysis methodologies will also need to be defined.		Specific elements of a cohesive monitoring plan have yet to be articulated. It is anticipated that a monitoring plan that integrates science to reduce uncertainty will link with and integrate the Logic Chain, Governance, Implementation, Operations, Adaptive Management, and Independent Science. Additional documents on the Monitoring and Research Programs and on Adaptive Management are scheduled to be released at November 18 BDCP Steering Committee meeting. Addressed in Issues for discussion Document, Chapter 3.	<u>No additional substantive information (December 2, 2010), except where noted.</u>
20		<u>Turbidity Effects</u>	Insufficient information has been provided at this time to enable evaluation of turbidity effects on fish movement and survival. Additional ARCADIS review needed.	Information Requested. We request additional information on turbidity effects from the BDCP team.	<u>No additional substantive information (December 2, 2010), except where noted.</u> Real-time operations of water supply can be integrated with spatial and temporal fish use within the Delta ecosystem. Processes exist that coordinate the Delta Operations Salmonid and Sturgeon (DOSS) and the Smelt Work Group (SWG) with the Water Operations Management Team (WOMT). OCAP Review, November 8 & 9, 2010.	<u>No additional substantive information (December 2, 2010), except where noted.</u>

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21		<u>Sacramento River and North Delta Impacts:</u> The effects of flow diversion on listed species and critical habitat are not adequately evaluated at this time.	Additional ARCADIS review needed. Because of upstream and in-Delta diversions, the San Joaquin River provides little outflow through the Delta. If significant Sacramento River is diverted from the north Delta less fresh water from the Sacramento will flow into the central and south Delta and it is not clear how this will improve water quality or fish and aquatic habitat.	Information Requested. We request additional information on the impacts of diverting Sacramento river water north of the Delta from the BDCP team.	Preliminary Effects Analysis has suggested modification of the proposed North Delta Intake configuration to reduce predation.	<u>No additional substantive information (December 2, 2010), except where noted.</u>
FUTURE UNCERTAINTIES						
Ecosystem & Water Management						
22		<u>Climate change/Sea Level Rise</u>	"10.22.09 SC HO Climate Change Methodology Presentation" shows the use of five different climate scenarios for analyzing effects. However effects analyses to date do not follow this methodology. The incorporation of this type of analysis is important for addressing uncertainty around future climates. Most papers currently being published project increasing aridity for California in coming decades (e.g., Dai, 2010, WIREs Climate Change, DOI: 10.1002/wcc.81). How effective would the proposed project be for both water supply and ecosystem function under prolonged drought conditions?	Information Requested. We request information from the BDCP team regarding how BDCP is addressing future uncertainties, such as: 1) climate change; 2) flood and risk management; 3) invasive species; 4) stressor-induced changes to conservation measures; and 5) overall system adaptability.	<u>No additional substantive information (December 2, 2010), except where noted.</u>	<u>No additional substantive information (December 2, 2010), except where noted.</u>

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23		<u>Flood and Risk Management</u>	Additional ARCADIS review needed. There is limited information available from BDCP on flood management and other risks including potential for levee failure at this time.	Information Requested. We request information from the BDCP team regarding how BDCP is addressing future uncertainties, such as: 1) climate change; 2) flood and risk management; 3) invasive species; 4) stressor-induced changes to conservation measures; and 5) overall system adaptability.	BDCP Working Draft Plan does not address flood and risk management and it is anticipated these issues will be addressed in the EIR/EIS.	<u>No additional substantive information (December 2, 2010), except where noted.</u> Department of Water Resources will hold a public Valleywide Forum to discuss the 2012 Central Valley Flood Protection Plan on December 9, 2010 from 1-5 p.m. at the City of West Sacramento's Civic Center Galleria, located at 1110 West Capitol Avenue.
24		<u>Invasive Species:</u> Limited measures for addressing invasive species impacts have been included at this time within the broad suite of conservation measures.	Additional ARCADIS review needed. Invasive species present ongoing and increasing risk to the distribution and viability of native aquatic organisms and communities within the Delta. The anticipated efficacy of proposed measures is not well supported and significant future uncertainty persists with regard to the effects of proposed BDCP actions on the distribution, abundance, and ecological influence of invasive species during and following BDCP implementation.		<u>No additional substantive information (December 2, 2010), except where noted.</u>	<u>No additional substantive information (December 2, 2010), except where noted.</u> NRC will collaborate with the Delta Independent Science Board to evaluate stressors. The Council has requested the ISB to prioritize the importance of stressors. NRC and Delta Independent Science Board is meeting is scheduled for next week, 8:30 a.m. – 5 p.m. 980 Ninth Street, 2nd Floor, Park Tower Conference Room

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25		<u>Conservation Measures:</u> Changes to conservation measures caused by stressors identified from related actions or from the effects of operations have not been identified at this time.	Additional ARCADIS review needed, awaiting information from BDCP team.		Updated Section 3.3, Goals and Objectives was made available and discussed at the BDCP Steering Committee meeting on November 18, 2010. Evaluating the extent to which different conservation measures and strategies will achieve biological objectives and iteratively revising components to craft a Plan that will best advance progress toward biological objectives is needed to fulfill the HCP/NCCP requirements.	<u>No additional substantive information (December 2, 2010), except where noted.</u> Efforts to more effectively link the effects of the Conservation Measures using SMART objectives is ongoing and will need to be reconciled when the Steering Committee reconvene.
26		<u>Ability to Adapt to Future Changes:</u> The ability of BDCP to adapt to changes in covered activities, regulations, and other circumstances does not appear to have been fully addressed to date.	Additional ARCADIS review needed, awaiting information from BDCP team.		<u>No additional substantive information (December 2, 2010), except where noted.</u>	<u>No additional substantive information (December 2, 2010), except where noted.</u>

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27		<p><u>Funding Related Issues</u>: including willing seller for land acquisition for habitat restoration and a substantive framework for short- and long-term funding sources of both water conveyance facilities and ecological and habitat restoration actions outlined within the Conservation Measures.</p>	<p>HCPs cannot be approved without identification of secured funding sources for proposed activities. HCPs must ensure that there is an adequate funding stream and specify the sources of funding available to implement the HCP's steps to mitigate impacts to its covered species.</p> <p>Where perpetual funding is required to implement mitigation measures, the HCP must establish programs or mechanisms to generate those funds.</p> <p>An applicant for a permit cannot rely on the speculative future actions of others to fund activities related to an HCP.</p> <p>The delay in the Water Bond vote poses a serious challenge to BDCP. The allocation of funding among beneficiaries also needs to be more clearly identified.</p>		<p>Property tax revenue replacement of land converted to restoration of habitat is extended to all private land acquisitions within the Cost Analysis chapter.</p> <p>The November 18, 2010 BDCP Steering Committee meeting discussed funding with assurances as it relates to conveyance facilities, habitat restoration and operation of South Delta facilities and associated mitigation categories. Ongoing sidebar conversations continue on this topic area.</p> <p>The November 18 BDCP Steering Committee meeting discussed changes in the cost analysis and evaluating an alternative methodology:</p> <ul style="list-style-type: none">- Yolo Bypass Conservation Measures, Freemont Weir with a Westside Option including fish passage and Sacramento Weir with improved avoidance of juvenile salmon stranding- Methyl Mercury capping to anchor contaminants- Payment of Property Tax on land conversion to restored habitat extended to all private land acquisitions- ROA land cost assumptions were refined <p>- Table summaries and formatting structure for ease of reading - Table summaries and formatting structure for ease of reading Capital outlays include land acquisition, construction and habitat restoration</p> <p>- Capital outlays include land acquisition, construction and habitat restoration</p> <p>- Refuge management costs are not a valid cost estimate. Suggest PAR analysis method</p> <p>- DHCCP completed a detailed analysis and consultant team rolled up costs for BDCP</p>	<p><u>No additional substantive information (December 2, 2010), except where noted.</u></p>

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Note: Items noted as "Addressed" indicate that they have either been discussed or acknowledged during BDCP Steering Committee meetings, by specific BDCP stakeholders or by the 9-9-10 Issues For Discussion document.						